

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**JAMES KIRKLAND, on Behalf of Himself and
all Others Similarly Situated,**

Plaintiff,

V.

CLEAN HARBORS, INC., ALAN S. MCKIM,
and ROGER A. KOENECKE,

Defendants.

) **Civil Action No. 03cv12302 (RWZ)**
) **Civil Action No. 03cv12523 (RWZ)**
) **Civil Action No. 03cv12581 (RWZ)**
) **Civil Action No. 03cv10061 (RWZ)**
)
)
) **VOLUNTARY STIPULATION OF**
) **DISMISSAL**
)
)
)
)

WHEREAS, on October 27, 2004, the Court appointed Bernstein Liebhard & Lifshitz, LLP as Lead Counsel for all Plaintiffs and class members in all matters regarding the actions listed above (the “Litigation”).

WHEREAS, the Litigation has not been certified as a Class Action pursuant to Fed. R. Civ. P. 23 and is not subject to Fed. R. Civ. P. 23(e) or Fed. R. Civ. P. 66.

WHEREAS, Defendants have not served any answer or motion for summary judgment.

IT IS HEREBY STIPULATED AND AGREED, by and through the parties' respective counsel, that the Litigation shall be dismissed under the following terms and conditions:

1. Parties agree to voluntarily dismiss Plaintiffs' claims pursuant to Fed. R. Civ. P. 41(a)(1)(ii) with prejudice;
2. The parties and their counsel effect, by and through this Stipulation, a full, mutual and complete release of any and all claims that they may have against one another arising from the filing, prosecution, defense, or dismissal of the Litigation;
3. Plaintiffs aver that the Litigation was commenced based on

publicly-available information at the time and that they filed the Litigation in good faith and in accordance with Rule 11 of the Federal Rules of Civil Procedure and that the Litigation is being withdrawn voluntarily, without consideration of value after consultation with competent counsel. Defendants agree not to contest these averments or the averment that the Plaintiffs and their respective counsel at all times complied with Rule 11 of the Federal Rules of Civil Procedure; and

4. That each party shall bear its own costs and expenses incurred in connection with the Litigation.

IT IS SO STIPULATED

Dated: November 30, 2004

SHAPIRO HABER & URMY LLP

/s/Theodore M. Hess-Mahan

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Lead Counsel for Plaintiffs

Dated: November 30, 2004

DAVIS MALM & D'AGOSTINE P.C.

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**Counsel for Defendants Clean Harbors, Inc.,
Alan S. McKim, and Roger A. Koenecke**